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Extract from NSW Legislative Assembly Hansard and Papers Wednesday 6 June 2007.

Agreement in Principle

Mr DAVID CAMPBELL (Keira—Minister for Police, and Minister for the Illawarra) [5.30 p.m.]: I move:
That this bill be now agreed to in principle.

The Government is pleased to introduce the Criminal Procedure Amendment (Local Court Process Reforms) Bill 2007. The bill reforms the processes concerning the service of briefs of evidence in criminal matters dealt with in the Local Court. The aim of the amendments is to reduce the amount of time police spend on paperwork and at court for matters in which the defendant ultimately pleads guilty. Since becoming Minister for Police I have been told time and time again that police want to spend less time behind a desk and more time on the front line. By reducing that paperwork police can be deployed back into front-line policing.
The reduction of crime in New South Wales is a key priority for this Government, particularly violent crime. We are committed to ensuring that there are sufficient numbers of police available to fight crime and to achieve our State Plan targets to make New South Wales as safe as possible. In 1997 the Justices Amendment (Briefs of Evidence) Act 1997 introduced for the first time the requirement for the prosecution to serve a full brief of evidence on the defence in advance of a summary hearing. Prior to this the defence relied upon a charge sheet and facts sheet.
Some police prosecutors had adopted the practice of providing the police brief, or part of it, to the defence on the morning of the hearing, but there was no requirement to do so. The New South Wales Police Force has advised that what benefits have come to pass since the introduction of the brief service requirement have come at a cost. They have come at the cost of New South Wales police having to do significantly more work on brief preparation, keeping police behind desks preparing statements and compiling briefs rather than engaged in front-line policing. There is a concern that a large volume of front-line police time is spent in preparing thousands of briefs of evidence. Yet often those briefs are not used because a defendant pleads guilty. This means hours of police time have been wasted.
For example, in 2005 there were 18,500 Local Court hearings for offences and Police Legal Services estimate that police prepared about 55,000 briefs of evidence during the same period. In July 2006 the Premier launched the proactive policing initiative. The aim of this initiative is to identify improvements to police processes that could potentially represent significant savings in police time. In late August 2006 the Premier's Delivery Unit [PDU] completed its report entitled "From Paperwork to Proactive Policing: Redtape Reduction in the Charge-to-Finalisation Process". That report proposed a number of reforms to the summary jurisdiction. The report expresses concern about the disproportionate amount of work that goes

into preparing briefs of evidence in some minor matters.
The Premier's Delivery Unit and police estimate that the whole process from charge to finalisation, even for charges ultimately resulting in a guilty plea, can take up to 135 hours of police time. The bill is a result of consultation between the Attorney General's Department, the Ministry for Police, the Premier's Delivery Unit and the New South Wales Police Force. The bill will improve the charge-to-court process and save police time by increasing the range of summary matters in which a brief of evidence does not have to be served. The 12-month trial will operate statewide but will be limited to the following offences: all driving with prescribed concentration of alcohol [PCA] offences; driving under the influence of alcohol or any drug; offensive conduct; and all summary matters in which a brief is currently required that attract a maximum penalty of a fine only.
The bill will also encourage early pleas through improved statements of fact and the early provision of primary evidence material at the time of charging and shortly thereafter. An independent evaluator will assess the 12-month trial. The evaluation will not only look at whether the reform being trialled is working but also whether there should be further reforms to increase efficiency. It should be noted that a no brief scheme currently operates in relation to penalty notice offences, which account for thousands of Local Court hearings annually. The trial as proposed by the Attorney will extend the scheme to other specific summary matters.
Bureau of Crime Statistics and Research data indicates that offences in relation to which the trial will be conducted accounted for over 3,000 Local Court hearings in 2005. During the same period Police Legal Services estimate that police prepare 9,350 briefs in table 1 matters. Comprehensive template facts sheets will be developed within the New South Wales Police Force to assist police officers in charge of a prosecution to draft clearer, more consistent facts sheets that address the essential proofs of each offence alleged. In addition, it is also proposed to annex copies of original police evidence such as witness statements or closed-circuit television [CCTV] footage, available at the time of charging, to facts sheets and provide them to defendants.
The aim of these reforms is to save police time in drafting the facts sheet and increase the number of early guilty pleas by providing the defendant at an early time with material that answers the question: On the evidence, how strong is the prosecution case against me? If the original evidence is annexed to an improved facts sheet at the time of charging, a practitioner should be able to give accurate advice to his or her client prior to the first mention date about the likelihood of successfully defending the matter and the wisdom of attempting to do so.
Early results from the current domestic violence court trial, being conducted through the Crime Prevention Division of the Attorney General's Department, indicate that the practice of annexing witness statements and other salient evidence to facts sheets, at the time of charging for domestic violence offences, has had a substantial positive effect in inducing a greater rate of guilty pleas. This system would promote the listing for hearing of only those matters where it is likely that the defendant will continue to defend the charge until conclusion. These reforms could have significant positive flow-through effects on the court system as a whole.
Offences such as escaping from lawful custody are deemed to be more serious than a strictly summary offence. These offences are indictable offences. However, under certain circumstances they may be dealt with summarily, that is, in the Local Court. These offences are contained within table 1 at the end of the Criminal Procedure Act 1986, and are commonly referred to as "table 1 offences". If a person is charged

with a table 1 offence both the prosecution and the defence can elect to have the matter dealt with on trial in the District Court rather than heard in the Local Court. Under section 265 of the Criminal Procedure Act 1986 full briefs of evidence are currently required to be served on the defendant before they elect whether to have the matter dealt with on indictment in the District Court. In practice less than 1 per cent of defendants elect to have table 1 matters tried before a jury in the District Court. The bill provides that a defendant in a table 1 matter will have to make the decision about whether he or she wishes to go to trial based on the statement of facts and before a full brief of evidence is given.

It is important to clarify that this amendment will not mean that a defendant will always be denied a brief of evidence. If there is an election to the District Court by either party and irrespective of which plea is entered, a brief will be served in accordance with chapter 3 of the Criminal Procedure Act 1987. If, on the other hand, no election is made but the defendant pleads not guilty and the matter proceeds to hearing in the Local Court, a brief is still required to be served, as chapters 4 and 5 of the Criminal Procedure Act will apply. This amendment is aimed at those defendants who do not elect to plead guilty and proceed straight to sentence in the Local Court. This will save time and money with respect to unnecessary brief preparation.

I turn now to the detail of the bill. Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation. Clause 3 is a formal provision that gives effect to the amendments to the Criminal Procedure Act 1986 set out in schedule 1. Clause 4 is a formal provision that gives effect to the amendments to the Criminal Procedure Regulation 2005 set out in schedule 2.

Schedule 1 [1] omits subsections (2) to (4) from section 265 of the principal Act and inserts proposed new subsections (2) and (3). Section 265 (2) of the Act currently provides that a person charged with a table 1 offence must be served with a copy of the brief of evidence and a copy of his or her criminal record before the time fixed by the Local Court for the making of an election in respect of the offence.

Section 265 (2A) to (4) of the Act currently provides the detail of what documents must be served and what powers the court has to adjourn proceedings when there has been a failure to serve the necessary documents. The amendments to section 265 remove the requirement that a person charged with a table 1 offence must be served with a brief of evidence before the time fixed by the court for the making of an election. The current section 183 will still require the service of briefs of evidence in proceedings for offences that are to be dealt with summarily, but only if the defendant has pleaded not guilty. The current section 75 will still require the service of briefs of evidence in all proceedings for offences that are to be tried on indictment.

Schedule 1 [2] amends schedule 2 to the principal Act to enable regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act. Schedule 1 [3] amends schedule 2 to the principal Act to make it clear that the proposed amendments made by schedule 1 [1] do not extend to any proceedings commenced prior to the commencement of the amendments. Section 187 (5) of the Criminal Procedure Act provides that proceedings of a kind prescribed by the regulations do not require a prosecutor to serve a brief of evidence.

Schedule 2 amends the Criminal Procedure Regulation by replacing clause 24 of schedule 2 to the Act. New clause 24 (1) expands the list of prescribed proceedings under section 187 (5) of the Act. New clause 24 (2) makes it clear that the

prescription of the additional proceedings in clause 24 (1) has effect for 12 months only and does not extend to any proceedings commenced prior to the commencement of the subclause. This Government has prioritised reducing crime in New South Wales. The New South Wales State Plan has clearly stated as an objective the reduction in rates of crime, particularly violent crime. One of the identified strategies for achieving that priority is reducing the bureaucratic burden on police to free up time for front-line activities. The initiatives outlined in this bill will help to reduce the time police spend on paperwork and at court and increase their time doing active policing work. I commend the bill to the House.